

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

R. E., et al.,

Plaintiffs,

v.

PACIFIC FERTILITY CENTER, et al.,

Defendants.

Case No.18-cv-01586-JSC

**ORDER RE: ADMINISTRATIVE
MOTIONS TO SEAL**

Re: Dkt. Nos. 51, 142, 158, 164, 168

The parties have filed several administrative motions to seal in connection with briefing on the pending motion to compel arbitration and the filing of Plaintiffs' First Amended Consolidated Class Action Complaint.

First, Defendant Pacific Fertility Center filed an administrative motion to seal with its motion to compel arbitration wherein it seeks sealing of Plaintiffs' informed consent forms. (Dkt. No. 51.) Defendant contends that sealing is warranted because the forms "contain Plaintiffs' personally identifiable information as well as other patient information regarding medical services rendered at PFC." (Dkt. No. 51-1 at ¶ 3.) These consent forms, however, are critical to Defendant's motion to compel arbitration and the request for sealing of the forms in their entirety is not narrowly tailored. *See* Civ. L.R. 79-5(b) ("the request must be narrowly tailored to seek sealing only of sealable material"). The motion to seal is therefore **DENIED WITHOUT PREJUDICE** to renewal seeking sealing only of the personally identifying information.

Second, Plaintiffs filed an administrative motion to seal with the First Amended Consolidated Class Action Complaint wherein Plaintiffs seek sealing of two categories of information: (1) information designated as confidential by Defendants, and (2) information Plaintiffs designated as confidential to protect their identity. (Dkt. No. 142-1.) Plaintiffs' request

1 for sealing of their identifying information in Exhibits 3, 4, 5, 6, 7, 8, and 9 to the Declaration of
2 Adam Polk is narrowly tailored the request to seal portions of those exhibits is GRANTED.
3 However, Defendants have not filed a declaration in support of sealing the information which they
4 designated as confidential under the parties' Stipulated Protective Order as required by Civil Local
5 Rule 79-5(e)(1). Accordingly, Plaintiffs' request to file portions of the First Amended
6 Consolidated Class Action Complaint under seal which reference information Defendants
7 previously designated as confidential is DENIED WITHOUT PREJUDICE.

8 Third, Defendant Pacific Fertility Center filed a supplemental administrative motion to seal
9 in connection with its supplemental brief in support of its motion to compel arbitration which
10 seeks sealing of the signature lines of Plaintiffs' arbitration agreement and the entire informed
11 consent agreement because "they contain Plaintiffs' personally identifiable information, as well as
12 other patient information...and various treatment elections." (Dkt. No. 158-1 at ¶ 3.) The request
13 to seal the signature lines of Exhibits A and B to the Declaration of Aaron Schultz is GRANTED.
14 However, as with Pacific Fertility Center's prior administrative motion to seal, the request to seal
15 the entire informed consent agreement is not narrowly tailored. Accordingly, the motion to filed
16 Exhibit C under seal in its entirety DENIED WITHOUT PREJUDICE to renewal seeking sealing
17 only of the personally identifying information.

18 Fourth, Plaintiffs filed an administrative motion to seal with their supplemental opposition
19 brief wherein they seek sealing of material designated as confidential either by Defendants or by
20 non-party Extron. (Dkt. No. 164.) However, neither designating party has submitted a declaration
21 in support of sealing as required by Civil Local Rule 79-5(e)(1). Accordingly, this administrative
22 motion to seal is also DENIED WITHOUT PREJUDICE.

23 Finally, Pacific Fertility MSO, LLC and Prelude Fertility, Inc., filed a motion to seal two
24 lines of their reply brief and the accompanying Declaration of Alden Romney. (Dkt. No. 168.)
25 The motion is supported by the Declaration of Susan Hertzberg who attests that the information
26 for which sealing is sought is confidential and disclosure of it could harm Defendants' business.
27 (Dkt. No. 168-1.) The motion to seal is therefore GRANTED.

28 Any renewed administrative motion to seal should be filed by Friday, March 8, 2019 in

1 accordance with Civil Local Rule 79-5. To the extent that any party files a renewed motion, they
2 shall electronically file both the redacted and unredacted versions of the documents for which
3 sealing is sought. Chambers copies are only required of the administrative motion to seal,
4 supporting declaration, and the unredacted (highlighted) version of the document sought to be
5 sealed. The chambers copies must include the ECF header.

6 This Order disposes of Docket Nos. 51, 142, 158, 164, 168.

7 **IT IS SO ORDERED.**

8 Dated: March 4, 2019

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11 JACQUELINE SCOTT CORLEY
12 United States Magistrate Judge
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